

TOWN COUNCIL OF LEO-CEDARVILLE
MEETING MINUTES
April 10, 2012

The town council of Leo-Cedarville met in regular session on April 10, 2012 at 7:00 PM at the Town Hall of Leo-Cedarville, located at 13909 Pony Express Run, Leo, IN 46765.

ATTENDANCE: In attendance were John Clendenen, president; Tim Richards, vice president; Ted Garton, Paul Steffens, and Kevin Veatch, council members; John Eastes, Clerk-Treasurer; and Peggy Garton, Town Manager.

AGENDA: Mr. Richards moved to accept the agenda; Mr. Veatch provided a second; and the motion passed by unanimous voice vote.

MINUTES: Mr. Garton moved to approve the minutes of March 27, 2012 as modified; Mr. Steffens provided a second; and the motion passed by unanimous voice vote.

PUBLIC COMMENT and SPECIAL PRESENTATION(S):

A local group of Cub Scouts led council and meeting attendees in the “Pledge of Allegiance.” Following the pledge, Hunter Momenee and Jonathan Marshall, Cub Scout pack members, provided council with a formal request that would allow local pack members to provide a day of service, picking up litter and debris within the town parks. Without objection, Mr. Richards expressed council’s appreciation and granted approval for the above-noted activity. Meeting attendees and members of council recognized the Cub Scouts’ volunteer efforts by giving them a round of applause.

- **Ordinance 2012-8: “Alcohol Sales Enabling Ordinance”:** Prior to reading the ordinance in its entirety, President Clendenen began by noting that the first reading of the ordinance draft occurred during the public hearing held at the Cedarville Park on March 27, 2012. President Clendenen stated that council would not hear further testimony and that the matter was now in the hands of council. President Clendenen communicated that Resolution 2008-08 requires council action “for” or “against” adoption of the ordinance during the current meeting.

Upon receiving no further question or comment from members of council, President Clendenen moved to adopt the ordinance; Mr. Veatch provided a second; and the motion to adopt the ordinance passed by unanimous voice vote.

Immediately following adoption of said ordinance, a local resident, Mr. David Baker, asked when the “Public Speaks” portion of the agenda, as adopted, would occur. President Clendenen stated that council would receive public input on other town matters, but not on the enabling ordinance that council had just adopted. President Clendenen continued by stating that council had followed Resolution 2008-08 and Indiana statute in the ordinance adoption process and that council was not required to hold multiple public hearings before choosing to adopt or not adopt said ordinance. President Clendenen stated that council had

given citizens on both sides of the enabling ordinance issue equal opportunity to speak “for” or “against” adoption of the ordinance during the above-noted hearing.

As noted below, council members Garton and Richards provided reasoning for their support of the ordinance and responded to residents’ verbalized concerns regarding the ordinance adoption process, noting that residents would still have the opportunity to provide the Indiana Alcohol and Tobacco Commission with input specific to JR’s Pub and its anticipated three-way liquor license application.

Mr. Richards stated that he had “reached out” to members of the community via Face Book, residents on his email list, and in conversation with residents and business owners, with responses being divided approximately 50-50 “for” and “against” adoption of the ordinance. Mr. Richards stated that he views JR’s Pub as a local business that is operating legally within the town and that it would not be appropriate for council to deny them an opportunity to grow their business. Mr. Richards expects JR’s Pub to continue being a good neighbor for those in the area and to remedy any problem of public intoxication, drinking and driving, an act of violence or destruction of property that may occur. In response to a question from a resident regarding the possibility of an increase in incidents of negative behavior, Mr. Richards stated that anytime such an incident occurs, the proper protocol would be to call the police.

Mr. Baker stated that council could not rescind the adopted enabling ordinance, as the ordinance is now irrevocable. Mr. Baker stated that he hopes council understands the gravity of their decision, as a portion of the town’s right to govern locally had been given away by council’s decision to adopt the enabling ordinance.

Mr. Gordon Liechty Sr. noted that a number of enabling ordinance supporters had attended the aforementioned hearing held in Cedarville Park, but that only just a few of those supporting adoption of the ordinance resided within the town of Leo-Cedarville. Referring to over 140 local residents that had signed petitions in opposition to council’s adoption of the enabling ordinance, Mr. Liechty asked, “Do they not count?” Mr. Liechty stated that his finding was not one of 50-50 but one that heavily weighed on the side of denying adoption of the enabling ordinance. Mr. Liechty asked council members to consider if they had represented the town, noting that he does not understand how council members had arrived at their decision. [Note: A number of petitions containing 144 signatures in opposition to the enabling ordinance were submitted seven days after the seven-day deadline, as set forth during the public hearing held on March 27, 2012. Public notices and state statute guidelines were followed throughout the adoption process. Eighty-eight petition signatures were submitted in a timely fashion in support of adopting the enabling ordinance.]

Mr. Garton stated that we have many businesses within the town, and he does not know of any local business that can survive if their client base is composed of only residents of Leo-Cedarville. Mr. Garton stated his belief that Leo-Cedarville business owners require support from those that live outside the community of Leo-Cedarville, just to stay in business, and that it would not have been appropriate to penalize JR’s Pub by not passing the ordinance. Mr. Garton stated that the town, by passing the above-noted ordinance, had not granted a

three-way liquor license to JR's Pub, as the Indiana Alcohol and Tobacco Commission is the grantor of three-way liquor licenses. Mr. Garton concluded by emphasizing council's passage of said ordinance only provided JR's Pub with the opportunity of making application for a three-way liquor license before the Indiana Alcohol and Tobacco Commission.

REPORT of the TOWN MANAGER: Mrs. Garton reported

- **Firework Donation Request Received:** Mr. Richards moved that the town donate \$4,500 to the Leo Cedarville Foundation in support of the Leo-Cedarville Fourth of July Freedom Festival fireworks activities. Mr. Steffens provided a second; and the motion passed by unanimous voice vote of four (4) council members, with President Clendenen abstaining, as he is the committee chairperson for the Freedom Festival Celebration.
- **Garage Sales:** The town has scheduled town-wide garage sales to occur May 3 through May-5.
- **Unlimited Garbage Pick Up:** The town has scheduled town-wide unlimited garage pickup to occur on May 6.
- **Employee Manual:** Mr. Veatch moved to adopt the town manual, as drafted by Mr. Proctor; Mr. Steffens provided a second; and the motion passed by unanimous voice vote. President Clendenen stated that he views the manual as a "fluid document," expecting additions by way of amendment to the manual to occur in the future; Mrs. Garton agreed.
- **Park Board Activities:** A grant application to improve Riverside Gardens is in front of the Department of Natural Resources (DNR) and believed to be in the final stages of the environmental approval process.

The Leo-Cedarville Park Board has announced a series of Riverside Gardens' Friday night concerts that will commence in June, with concert times from 7:30 PM to 8:30 PM.

A local running club has been formed and now uses Cedarville Park as the point of origin for its Saturday morning activities.

Pavilion rentals are being heavily booked at this time for May, June, July and August of 2012; sign rentals are heavily booked through May of this year.

- The Leo-Cedarville Foundation held its first meeting, with the intention of improving the "quality of life" by supporting projects that positively affect the Leo-Cedarville community.

Items Tabled by Council:

- **Troy Wieland Information Request:** Mr. Wieland has inquired about the current time-line schedule for paving the public parking lot area on the south side of his downtown commercial building. Before responding to Mr. Wieland's request, council directed Mrs. Garton to compile a list of other areas that may require paving within the town.
- **Town Hall Exit Lane:** The town has received a quote for concrete work to provide an exit lane on the south side of the current town hall parking lot onto Trading Post Road. By consensus and upon Mr. Veatch's request, Mrs. Garton will secure additional competitive bids before council moves forward with the paving project.
- **Right-of-Way Dedication:** Council tabled Leo-CHS, LLC "Right-of-Way Dedication Agreement" for the Lutheran Medical Group's anticipated new medical clinic.
- **Additional Discussion Regarding Garage Sales:** A draft of an ordinance that would limit the number of residential garage sales within the town will be prepared and presented for council's consideration and review. As part of the process of drafting the ordinance, council will consider hours and days of operation as well as a provision for cases of hardship.

REPORT of the CLERK-TREASURER: Mr. Eastes reported

- All employment taxes for the month of March 2012 have been deposited with the appropriate agencies of the federal and state government;
- The following reports were filed for the first quarter of 2012 on March 30, 2012: Form 941, Employer's Quarterly Federal Tax Return; Form UC 5, Employer's Quarterly Payroll Report; and Form UC-1, Employer's Quarterly Contribution Report;
- On April 7, a local resident's "Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, and Deadlines" was received; a copy of the filing was sent by fax to the attention of Mr. Proctor, legal counsel for the town;
- On April 5, the State of Indiana Office of Management and Budget (OMB) announced that approximately \$206 million in 2011 underpayments to local units of government had occurred, due to an error by the Indiana Department of Revenue in calculating income tax revenues; to date of this writing, the town's share of undistributed 2011 and 2012 revenues is unknown;
- As distributed on March 27, Mr. Eastes recommends council review Ordinance 2007-01 ("*An Ordinance Establishing a Returned Check Fee*") currently in effect, to be followed with an update to said ordinance sufficient in scope to cover costs incurred when the town is presented with a customer's nonsufficient-funds' check; and
- As discussed briefly on March 27, Mr. Eastes provided cost estimates and requested council support to attend the "Indiana League of Municipal Clerks and Treasurers 76

Annual Conference and State Board of Accounts School,” as scheduled June 24 through June 28, in Indianapolis, with costs to attend the above-noted event to include registration fees and customary travel expense reimbursement (food, lodging parking and transportation). Mr. Veatch moved to approve the above-noted request; Mr. Garton provided a second; and the motion passed by unanimous voice vote. A voucher sufficient to cover registration fees will be presented for council approval on April 24.

The following resolutions were distributed and recommended for council approval, with action taken as noted herein:

- **Resolution 2012-9:** *“Resolution to Transfer Funds from and to Major Budget Classifications for the Purpose of Upgrading Computer System Software”* was introduced. Mr. Steffens moved to adopt the resolution; Mr. Richards provided a second; and the motion to adopt the resolution passed by unanimous voice vote.
- **Resolution 2012-10:** *“Resolution to Transfer Funds from and to Major Budget Classifications for the Purpose of Supporting Paramedic Startup Costs”* was introduced. Mr. Garton moved to adopt the resolution; Mr. Veatch provided a second; and the motion to adopt the resolution passed by unanimous voice vote.

The following items were distributed for discussion:

- March 31, 2012 Reconciled Funds’ Statement, with supporting appropriation schedules;
- An “Employee Pay File Hours by Pay Type Summary” for the first quarter ended March 31, 2012; and
- An April 10, 2012 Allen County Auditor Certificate that certifies the allocation of population and votes of the Allen County Income Tax Council as prepared.

VOUCHERS APPROVED BY COUNCIL SIGNATURES:

- April 10, 2012 line-item form totaling \$33,210.09.
- April 10, 2012 line-item form totaling \$1,401.49.

Summary: The total amount of all vouchers approved by council was \$34,611.58.

MOTION TO ADJORN: Mr. Richards moved to adjourn the meeting; Mr. Veatch provided a second; and the motion to adjourn passed by unanimous voice vote.

APPROVE:

ATTEST:

JOHN CLENDENEN, Council President

JOHN EASTES, Clerk-Treasurer